

North Fork Zoning Regulations: Overview of Proposed Text Amendments

1. INTRODUCTION

As most people know, we had a couple of situations last summer (2020) that called our collective attention to our North Fork Zoning Regulations and some problems in them with inconsistencies and ambiguities. Most of us hadn't really paid any attention to the zoning regs before that and a lot of people didn't even know there were any. As a result of the actions taken by the Board of Adjustment and communications between the Planning and Zoning Department and our North Fork Land Use Advisory Committee, a subcommittee was formed to draft a text amendment to the regs to address those problems. As we wrestled with the regs and sought input from the Planning and Zoning Department as to what we could and could not do, it became clear that the difficulties arose from a disconnect between the Neighborhood Plan and the Zoning Regulations.

A little history. The first 4 pages of the North Fork Neighborhood Plan (adopted in 2008) provides details of the history of land use planning in the North Fork dating back nearly 70 years. Summarized here, it includes:

- Creation of the North Fork Improvements Association in 1953 (later changed to the NFLA);
- Creation of the North Fork Compact in 1973 which encouraged landowners to voluntarily limit subdivision of their property to 20 acres;
- A Flathead County Zoning process initiated in 1977 to try to establish zoning in the North Fork;
- Establishment of the Land use Planning Committee in 1984;
- Creation of the North Fork Land Use Advisory Committee by the Flathead County Commissioners in 1987; and
- Completion of the first North Fork Neighborhood Plan in 1991.

That original North Fork Neighborhood Plan and subsequent amendments to it provided the basis for the creation of a North Fork Zoning District and adoption of the North Fork Zoning regulations by the Flathead County Commissioners in October, 1998.

Then for the next ten years, a huge effort was undertaken to update the North Fork Neighborhood Plan and to achieve community-wide buy-in to its values, goals and objectives. This Revised North Fork Neighborhood Plan was adopted on June 12, 2008.

And so, things stood last summer and still stand: Zoning Regs from 1998 and a Neighborhood Plan from 2008. The cart had worked its way around to the front of the horse. The idea is to have Zoning Regs which are responsive to the goals and values of the neighborhood plan. But we have a situation in the North Fork where the zoning regs pre-date the Revised Neighborhood Plan by 10 years and so are no longer responsive to it. The North Fork Neighborhood Plan adopted June 12, 2008 sets forth goals and policies to:

- Preserve low densities and open spaces in the North Fork
- Maintain the remote undeveloped qualities unique to the North Fork
- Maintain and enhance the pristine water and air quality found in the North Fork
- Preserve and enhance the scenic values of the North Fork

The proposed text amendment to the 1998 North Fork Zoning Regulations is intended to put the horse back out in front of the cart, such that the regs reflect the goals and policies of the Neighborhood Plan.

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2. SUMMARY OF PROPOSED CHANGES TO THE NORTH FORK ZONING REGULATIONS

- A. Section 3.40.010 **"Definition"** has been changed to **"Purpose"** and updated to reflect most recent North Fork planning documents and reworded to include the creation of the North Fork Land Use Advisory Committee (NFLUAC) and a description of its role.
- B. Section 3.40.011 **"Implementation"** This section has been added to explain permitted and conditional uses and describe the processes for applying for a Conditional Use Permit or Variance.
- C. Section 3.40.012 **"Performance Standards"** have been added because there were none. These performance standards are derived from the North Fork Neighborhood Plan and apply to all permitted and conditional uses in the North Fork Zoning area. They reflect the goals listed above from the Neighborhood Plan and describe detrimental impacts which must be avoided for all land uses in the North Fork. These include standards to minimize noise, traffic, congestion, dust, garbage and other waste, interference with wildlife, undue health and safety hazards, and fire danger.
- D. Section 3.40.020 **"Permitted Uses"**. The list of Permitted Uses has been modified, where noted (definitions are provided at the end of this document):
- Agriculture/Timber Operation. County definition of Agriculture has been amended to better reflect North Fork conditions.
 - Bed and Breakfast or Hostel has been changed to Bed and Breakfast. Hostel has been changed to Conditional Use
 - Church. County definition has been amended to better reflect North Fork conditions.
 - Community Center Building. No changes proposed to existing County definition.
 - Community Residential Facility, Class One. No changes proposed to existing County definition.
 - Dwelling, Single-Family. No changes proposed to existing County definition.
 - Guest Cabin has been changed to Guest Accommodation.
 - Post Office has been changed to U.S. Post Office.
 - Public School. No changes proposed. No changes proposed to existing County definition.
 - Public Utilities. No changes proposed to existing County definition.
 - Recreational Vehicle or Camping (private) has been removed as a separate permitted use and is now included within the Guest Accommodation permitted use.
 - Residential Business with up to 5 non-family employees has been changed to Home-based Business or Occupation with no more than one on-site full time equivalent non-family employee which is consistent with zoning regulations for other zoning districts in Flathead county.
 - Rental Cabin has been changed to Rental Accommodation and is limited in number and permitted density depending on the type of accommodation.
- E. Section 3.40.030 **"Conditional Uses."** The list of Conditional Uses has been modified, where noted (definitions are provided at the end of this document):
- Camp or Retreat Center. Definition has been amended to better reflect North Fork conditions.

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- Cellular Communications Tower. Use has been changed to Conditional Use and minor changes made to existing County definition.
- Coin Operated Laundry has been removed.
- Convenience Store. Convenience Store and Gift/Souvenir Shop have been combined and activity-specific performance standards have been added.
- Extractive Industries have been removed as a result of the Treaty with Canada and the 2014 North Fork Watershed Protection Act.
- Gift/Souvenir Shop. Gift/Souvenir Shop has been combined with Convenience Store.
- Guest Ranch. No changes proposed to County definition.
- Residential Business with more than five employees has been changed to Home-Based Business/Occupation with more than one on-site FTE non-family employee which is consistent with the zoning regulations in other Flathead County Zoning Districts
- Private School. Definition has been added.
- Public Showers. Public Shower definition has been amended to combine with existing commercial use.
- Outdoor Recreation Facility has been removed. Activities which are compatible with North Fork performance standards are subsumed under either Camp or Retreat Center or Guest Ranch.
- Recreational Vehicle Park or Campground (public) has been removed as a separate use and subsumed under Rental Accommodation.
- Rental Accommodation has been added as a condition use for rental accommodations which exceed the numbers allowed under permitted uses.
- Restaurant/Tavern has been combined into a single use rather than separate uses.
- Work Camp has been added.

F. Section 3.40.040 “Development Standards

- Paragraph on lot size is unchanged
- Paragraph regarding Setbacks is unchanged. The following paragraph (number 3 in the original) is actually part of paragraph 2 and concerns variances. It contains an error which has been corrected in the text amendment. The original states: “Any existing lot or tract which cannot meet these setbacks because of size or topographic limitations *will be given* a variance”. It has been moved up to follow on Paragraph 2, as it pertains to the setbacks listed in #2 and the language has been corrected to clarify that landowners in such cases will be eligible to *apply for* a variance, rather than stating it is automatically granted.
- Paragraph regarding On-site signs is unchanged
- Paragraph regarding Off-site signs is unchanged
- Paragraph regarding Grandfathered (non-conforming) uses is unchanged except the last sentence is corrected to read: . . . “the owner is free to expand, modify or rebuild it *in compliance with County provisions for nonconforming uses (2.07.040)*”

G. Section 3.40.050 “Definitions” The definitions of terms used in these regulations are to be those used in the Flathead County Zoning Regulations, except for terms which have a specific definition

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set forth below. The definitions stated below shall only apply to this Zoning District. Several changes have been made to this section to clarify uses in the North Fork District.

- Where there was a county definition but no North Fork definition, the county definition has been amended to conform with the unique North Fork context, the North Fork Neighborhood Plan and the North Fork Zoning Regulations Performance Standards (e.g., Agricultural/Timber Operation.)
- Where there were no definitions for either the county or the North Fork Zoning District, a definition has been provided (e.g., Convenience Store, Restaurant).
- Where there were North Fork definitions which caused confusion or were outdated, these have been clarified and updated (e.g., “Cabin” is replaced by “Accommodation” and further defined; Residential Business has been replaced by Home-Based Business or Occupation in keeping with other zoning districts in the county).

The Definitions section now includes definitions (and, where appropriate, additional performance standards) for Permitted and Conditional uses within the North Fork Zoning District only. (Note: following the North Fork Definitions summarized below, the definitions of North Fork Permitted and Conditional uses which are incorporated by reference to the Flathead Zoning Regulations are listed.)

PROPOSED NORTH FORK ZONING DISTRICT DEFINITIONS

Agricultural/Timber Operation (No previous NF definition. Now excludes such uses as meat-packing plant and feed lots.)

Camp or Retreat Center (No previous NF definition. Now limits activities to those consistent with the Neighborhood Plan, requires a minimum lot size of 40 acres to limit the potential for conflict with neighbors specific to noise, traffic congestion and other potential detrimental impacts.)

Church (No previous NF definition. Now defined to exclude “megachurches”).

Convenience Store/Souvenir Shop (No previous NF definition. Now includes performance standards specific to, for example, noise and hours of operation.)

Guest Accommodation (Previously defined as Guest Cabin. The new definition expands the types of structures or sites which are defined as guest accommodations. There continues to be no density restriction for guest accommodations.)

Home-Based Business Occupation with no more than one on-site FTE non-family member Previously defined as Residential Business with up to 5 non-family employees. (The North Fork definition is revised to be consistent with the other Flathead County Zoning Districts, includes by reference the County performance standards and adds other performance standards specific to, for example, traffic and hours of operation.)

Home-Based Business Occupation with more than one on-site FTE non-family member (previously defined as a Residential Business with more than five employees.)

Hostel (No previous NF or County definition. Now includes performance standards and limits new hostels to a minimum lot size of 40 acres to minimize neighborhood conflicts.)

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Private School – (No previous definition. Now specifies a non-public, academic school which operates in compliance with Montana state law governing private schools.)

Public Shower (No previous NF or County definition. Now defined to be accessory to an existing business excluding home-based businesses.)

Rental Accommodation (Previously defined as Rental Cabin with a density standard of no more than one per five acres of contiguously owned land; redefined to recognize the widely variable types of structures, spaces and sites which can be used for overnight rental accommodations. The density standard is no more than one rental accommodation for each 5 acres of contiguously owned land or contiguous property used for a home-based or other business/occupation. There is a maximum number of rental accommodations allowed regardless of property size before a conditional use permit is required.

Restaurant/Tavern (No previous NF or County definition of Restaurant and when defined overlapped so much with Tavern that they are defined together for the North Fork Zoning District. This definition includes performance standards consistent with other commercial uses and requires noise mitigation if located closer than 6,500 feet to properties that may be used for private residences.)

U.S. Post Office (No previous NF definition; now clarified as U.S. government Post Office.)

Work Camp (A new conditional use based on the County's new definition to provide temporary housing for the employees of a North Fork business.)

EXISTING FLATHEAD COUNTY ZONING REGULATIONS INCORPORATED BY REFERENCE

Bed and Breakfast 8.03.030 – A single-family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facilities, and meals only to overnight patrons.

Community Center Buildings 8.04.115 – A building, structure, facility or use constructed and designed to serve a broad base community need and purpose. Community center buildings are intended to be used for recreational, social, educational, and cultural activities, open to the public, or a designated part of the public, owned and operated by a nonprofit group or agency. This definition specifically excludes any use, structure, building or facility that utilizes an on-premise alcohol consumption license.

Community Residential Facility, Class One 8.04.120 – A community or group home, which may provide for skilled or intermediate nursing care for developmentally, mentally, or physically disabled persons. Such uses that would be covered by this term include but are not limited to: A youth foster home, youth group home, a halfway house or an adult foster care home, a convalescent home, a family care home, a nursing home, retirement home, or personal care facility. The term does not include boarding houses and similar uses. These facilities must be operated in accordance with regulations and license requirements of the Department of Public Health and Human Services. Per Section 76-2-411, M.C.A., certain types of Class I community residential facilities are conforming residential uses in all residential zoning districts. These uses shall comply with the permit requirements and performance standards of this section and the

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performance standards of residential uses within the underlying zoning district. There are three tiers of Community Residential Facilities: Class 1: 8 or fewer persons. By Administrative Conditional Use Permit in all Residential Zoning Districts (SAG-5, 10, R-2.5, R-1, 2, 3, 4, and 5, RC-1, and RA-1)

Dwellings, Single-Family 8.05.100 – A building used for human residential purposes (Includes Accessory Structures per Section 5.01.020 (1) Flathead County Zoning Regulations)

Guest Ranch 8.08.060 – A centrally managed facility that provides full-service lodging, dining or cooking facilities, and onsite recreational activities for overnight guests or members. A ranch resort shall include an organized program of activities such as hunting, fishing, nature study, arts, Nordic skiing, snowmobiling, boating, rafting, horseback riding, hiking, and pack trips. A guest ranch may also include corporate or religious retreats or conference facilities. Activities shall be provided on-site to the extent possible. Adjacent public lands and waterways may be used to supplement on-site activities if proper licenses and permits are obtained. Guest lodging within a ranch resort shall not be used for long-term residency beyond three (3) months. Hotels and motels are not considered guest ranches. All ranches providing guest services shall contain or have a use agreement for at least one hundred and sixty (160) acres.

Public School 8.18.015 – Schools established by recognized school districts supported by public funds.

Public Utility 8.16.160 – A public service corporative (**sic**) performing some public service and subjected to special governmental regulations, or a government agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, telephone, television cable antennae, gas, fire stations, police stations, quick response units, and transportation for persons and freight.